

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE SEPTEMBER 6, 2013

SENATE BILL

No. 772

**Introduced by Senator ~~Emmerson~~ Roth
(Principal coauthor: ~~Senator Roth~~)**

February 22, 2013

An act to add Section 71760 to the Water Code, relating to drinking water, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as amended, ~~Emmerson~~ Roth. Drinking water: *County Water Company of Riverside water system: liability.*

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Existing law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district.

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Department of Public Health various responsibilities and duties. Existing law requires the department to conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, to adopt regulations to implement the California Safe Drinking Water Act, and to enforce provisions of the federal Safe Drinking Water Act.

This bill would exempt the Elsinore Valley Municipal Water District and the Eastern Municipal Water District from liability for ~~injuries or damages arising out of the delivery of claims by past or existing County~~

Water Company of Riverside customers or those consuming water provided through the County Water Company of Riverside water system concerning the operation and supply of water from the County Water Company of Riverside water system during the interim operation period, as specified, for any good faith, reasonable effort using ordinary care to assume possession of, and to operate and supply water to, the County Water Company of Riverside—customers, as specified. water system. This bill would provide that immunity from liability exists for all future claims by County Water Company of Riverside customers that will be served by Elsinore Valley Municipal Water District and Eastern Municipal Water District after the termination of the interim operation period associated with those portions of the County Water Company of Riverside water system that are retained by the municipal water districts as part of the permanent replacement facilities, as specified. This bill would prohibit the immunity from liability from being construed either to relieve the municipal water districts from drinking water quality compliance obligations, as specified, or to extend to claims alleging the taking of property without compensation. This bill would require the interim operation period to last until permanent replacement facilities are accepted by the municipal water districts with the concurrence of the department, or December 31, 2015, whichever occurs first. This bill would require the department to extend the interim operation period for up to one year at the request of the municipal water districts, as prescribed.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 71760 is added to the Water Code, to
- 2 read:
- 3 71760. (a) (1) Elsinore Valley Municipal Water District and
- 4 Eastern Municipal Water District shall not be held liable for claims
- 5 by past or existing County Water Company of Riverside customers
- 6 or those consuming water provided through the County Water
- 7 Company of Riverside water system concerning the operation and
- 8 supply of water from the County Water Company of Riverside
- 9 water system during the interim operation period specified in

1 *subdivision (c) for any good faith, reasonable effort using ordinary*
2 *care to assume possession of, and to operate and supply water to,*
3 *the County Water Company of Riverside water system.*

4 *(2) Immunity from liability shall exist for all future claims by*
5 *County Water Company of Riverside customers that will be served*
6 *by Elsinore Valley Municipal Water District and Eastern Municipal*
7 *Water District after the termination of the interim operation period*
8 *associated with those portions of the County Water Company of*
9 *Riverside water system that are retained by Elsinore Valley*
10 *Municipal Water District and Eastern Municipal Water District*
11 *as part of the permanent replacement facilities, including, but not*
12 *limited to, the following:*

13 *(A) Claims alleging personal injury, property damage, liability*
14 *related to water quality, fire flow, and service interruption if the*
15 *cause of action is based solely upon water that was served prior*
16 *to commencement of the interim operation period.*

17 *(B) Claims based solely on commissions or omissions that*
18 *occurred prior to the commencement of the interim operation*
19 *period.*

20 *(b) Immunity from liability pursuant to this section shall not be*
21 *construed to do either of the following:*

22 *(1) Relieve Elsinore Valley Municipal Water District and*
23 *Eastern Municipal Water District from drinking water quality*
24 *compliance obligations under Title 22 of the California Code of*
25 *Regulations.*

26 *(2) Extend to claims alleging the taking of property without*
27 *compensation within the meaning of either the Fifth Amendment*
28 *to the United States Constitution or Section 19 of Article I of the*
29 *California Constitution.*

30 *(c) (1) The interim operation period shall commence upon the*
31 *connection of a temporary potable service pipeline by either*
32 *Elsinore Valley Municipal Water District or Eastern Municipal*
33 *Water District to the County Water Company of Riverside water*
34 *system, or upon the execution of an agreement between Elsinore*
35 *Valley Municipal Water District, Eastern Municipal Water District,*
36 *the County Water Company of Riverside, and any other signatories,*
37 *to provide service to the customers of County Water Company of*
38 *Riverside, whichever occurs first.*

39 *(2) (A) Except as provided in subparagraph (B), the interim*
40 *operation period shall last until permanent replacement facilities*

1 are accepted by Elsinore Valley Municipal Water District and
2 Eastern Municipal Water District with the concurrence of the State
3 Department of Public Health, or December 31, 2015, whichever
4 occurs first.

5 (B) The interim operation period shall be extended by the State
6 Department of Public Health for up to one year at the request of
7 Elsinore Valley Municipal Water District and Eastern Municipal
8 Water District based upon evidence of unforeseen circumstances
9 associated with the construction of the permanent replacement
10 facilities.

11 (3) The acceptance date of permanent replacement facilities
12 and the transfer of the County Water Company of Riverside water
13 system and operations to Elsinore Valley Municipal Water District
14 and Eastern Municipal Water District shall be publicly noticed by
15 Elsinore Valley Municipal Water District and Eastern Municipal
16 Water District.

17 (d) The immunity provided by paragraph (1) of subdivision (a)
18 shall be contingent upon Elsinore Valley Municipal Water District,
19 Eastern Municipal Water District, or both, delivering water to the
20 County Water Company of Riverside water system in accordance
21 with the special terms and conditions established by the State
22 Department of Public Health for safe drinking water emergency
23 funding under Section 75021 of the Public Resources Code for the
24 Elsinore Valley Municipal Water District and Eastern Municipal
25 Water District during the interim operation period, including, but
26 not limited to, the following conditions:

27 (1) Water provided by Elsinore Valley Municipal Water District
28 and Eastern Municipal Water District through the temporary
29 potable service pipeline to the County Water Company of Riverside
30 water system shall meet or exceed drinking water quality standards
31 under Title 22 of the California Code of Regulations.

32 (2) Reasonable water system flow and pressure through the
33 temporary potable service pipeline are maintained based upon the
34 condition and integrity of the existing County Water Company of
35 Riverside water system and any disruptions to water delivery
36 resulting from construction related activities associated with the
37 installation of permanent replacement facilities are minimal.

38 (3) Elsinore Valley Municipal Water District and Eastern
39 Municipal Water District shall notify Riverside County fire officials
40 serving the County Water Company of Riverside area of the

1 *condition and firefighting support capabilities of the existing*
2 *County Water Company of Riverside water system and planned*
3 *improvements with the installation of permanent replacement*
4 *facilities thereto.*

5 *(4) Customers of County Water Company of Riverside shall*
6 *receive written notice upon any change in possession, control, or*
7 *operation of the water system.*

8 *SEC. 2. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety within*
10 *the meaning of Article IV of the Constitution and shall go into*
11 *immediate effect. The facts constituting the necessity are:*

12 *In order to provide safe drinking water that is always reliable*
13 *for current customers of the County Water Company of Riverside*
14 *at the earliest possible date, it is necessary that this act take effect*
15 *immediately.*

16 ~~SECTION 1. The Legislature finds and declares the following:~~

17 ~~(a) The Legislature recognizes there is an urgent need for safe~~
18 ~~and reliable water service to be provided to the water users of the~~
19 ~~County Water Company of Riverside, a private water company.~~

20 ~~(b) The company is located in Riverside County, California.~~
21 ~~Currently, the County Water Company of Riverside is unable to~~
22 ~~provide clean and reliable water services to their water users.~~

23 ~~(c) The County Water Company of Riverside is located adjacent~~
24 ~~to two municipal water districts, the Eastern Municipal Water~~
25 ~~District and the Elsinore Valley Municipal Water District, both of~~
26 ~~which are formed pursuant to the Municipal Water District Law~~
27 ~~of 1911 (Chapter 1 (commencing with Section 71000) of Part 1~~
28 ~~of Division 20 of the Water Code).~~

29 ~~(d) It is the intent of the Legislature to provide the Eastern~~
30 ~~Municipal Water District and the Elsinore Valley Municipal Water~~
31 ~~District immunity from any and all claims and operational liability,~~
32 ~~while they are using the preexisting substandard facilities of the~~
33 ~~County Water Company of Riverside to provide water service to~~
34 ~~the County Water Company of Riverside's customers and~~
35 ~~simultaneously constructing new facilities which will serve those~~
36 ~~customers.~~

37 ~~(e) It is the intent of the Legislature to provide the Eastern~~
38 ~~Municipal Water District and the Elsinore Valley Municipal Water~~
39 ~~District ongoing immunity from any and all future claims~~
40 ~~associated with the unimproved, substandard facilities portions of~~

1 the system originally constructed by the County Water Company
2 of Riverside.

3 SEC. 2. ~~Section 71760 is added to the Water Code, to read:~~

4 71760. ~~The Elsinore Valley Municipal Water District and the~~
5 ~~Eastern Municipal Water District are hereby exempt from liability~~
6 ~~for any and all injuries or damages arising out of the delivery of~~
7 ~~water to the County Water Company of Riverside customers, as~~
8 ~~follows:~~

9 (a) ~~Immunity from liability shall exist during the period of~~
10 ~~operation from the initiation of service by the Elsinore Valley~~
11 ~~Municipal Water District and the Eastern Municipal Water District~~
12 ~~upon the connection of a temporary potable service pipeline on or~~
13 ~~before January 2014, until permanent replacement facilities are~~
14 ~~accepted by the Elsinore Valley Municipal Water District and the~~
15 ~~Eastern Municipal Water District. The acceptance date of the~~
16 ~~permanent replacement facilities will be publicly noticed by the~~
17 ~~Elsinore Valley Municipal Water District and the Eastern~~
18 ~~Municipal Water District with the concurrence of the State~~
19 ~~Department of Public Health.~~

20 (b) ~~Immunity from liability shall extend to all future claims~~
21 ~~associated with portions of the system originally constructed by~~
22 ~~the County Water Company of Riverside, including, but not limited~~
23 ~~to, claims arising from personal injury, property damage, liability~~
24 ~~related to water quality, fire flow, and service interruptions.~~

25 (c) ~~Immunity from liability shall extend to all claims by the~~
26 ~~County Water Company of Riverside's customers arising prior to~~
27 ~~the Elsinore Valley Municipal Water District's and the Eastern~~
28 ~~Municipal Water District's ownership and operation of the system.~~